

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

ETHIOPIA TEDLA, *Applicant*

vs.

**SANTA ROSA CITY SCHOOLS, permissibly self-insured,
administered by REDWOOD EMPIRE SCHOOLS INSURANCE GROUP, *Defendants***

**Adjudication Number: ADJ20322653
Santa Rosa Office**

**OPINION AND ORDER
GRANTING PETITION FOR
RECONSIDERATION
AND DECISION AFTER
RECONSIDERATION**

Applicant seeks reconsideration of the June 9, 2026 Findings and Order (F&O) issued by a workers' compensation administrative law judge (WCJ), wherein the WCJ found that applicant failed to establish that she sustained a compensable psychiatric injury arising out of and in the course of her employment as a custodian through December 27, 2024.

Applicant's Petition for Reconsideration alleges that "Rafel Alex & Abraham attack[ed] me every day so I could lose my job. They would have meetings in Spanish so I couldn't understand. I submitted all the evidence to the Judge." (Petition dated August 3, 2026, page 1.) The Petition, which is verified, further states that applicant never received the WCJ's order in the mail, and that she had to go to the WCAB office to get a copy of the F&O. (*Ibid.*)

Defendant has filed an Answer, and the WCJ has prepared a Report and Recommendation on Petition for Reconsideration (Report) recommending that we deny reconsideration.

We have considered the Petition for Reconsideration, defendant's Answer, and the contents of the Report, and we have reviewed the record in this matter. Based upon our review of the record, we will grant applicant's Petition for Reconsideration, rescind the F&O, and return the matter to the trial level for further proceedings consistent with this decision.

FACTS

On January 2, 2025, applicant's then attorneys filed an Application for Adjudication of Claim alleging that a cumulative injury to her nervous system - psyche, circulatory system, head, and teeth while employed as a night shift custodian by defendant during the period from January 1, 2018 to December 27, 2024. The Application also more specifically alleged: "AFTER EXPERIENCING A HOSTILE WORK ENVIRONMENT AND REPETITIVE STRAIN THE APPLICANT SUSTAINED INJURIES TO HIGH CHOLESTEROL GRINDING OF TEETH HIGH BLOOD PRESSURE HEADACHES STRESS AND PSYCHOLOGICAL INJURIES." (All caps in original.)¹

Panel Qualified Medical Evaluator (PQME) Ann E. Allen, M.D., a psychiatrist, evaluated applicant on June 12, 2025, and provided an evaluation report of that date as well as three supplemental reports dated August 1, 2025, October 31, 2025, and December 4, 2025.

In her initial report, Dr. Allen noted that applicant attributed her emotional symptoms to fear that doors were unlocked at her workplace:

As she described it, emotional symptoms began in the summer of 2024. She was stressed that although she had locked the door, that the doors would be unlocked and someone could enter. She is still finding that her doors are unlocked. She began feeling stress last summer after finding that doors were unlocked when she would be done with her shift. She was having problems with her sleep, and her husband would recommend that she take a cold shower. She asked for a one-month leave of absence so that she could go for massages and take long walks with her husband for stress release. The doctor wanted to give her sleeping medication, but she did not want to, has fears about taking those agents.

She returned to work in August of 2024. At first she was doing well and there weren't any issues. Then she started finding doors unlocked again, and she would be frightened in the building and hide under the teacher's chair when she heard a strange sound. It also affected her sleep, and she experiences pressure in her chest. She has panic attacks. She sweats. She finds herself less focused on her job because she is worrying about the doors. However, she is able to get her tasks done at work. She has not missed any more work from her job because of her stressors. She has not treated with any counselors or psychiatrists.

(Defendant's Exhibit C, Report of PQME Dr. Allen dated June 12, 2025, pp. 3-4.)

Dr. Allen diagnosed an Unspecified Anxiety Disorder, with no personality disorder diagnosis. (*Id.*, p. 9.) The PQME attributed 100% of causation of injury to work stress if doors

¹ The parties and the WCJ are reminded that stress is not a properly pled body part; it is a cause of injury. Moreover, there is no evidence that applicant was claiming physical injuries to her head or nervous system.

were in fact unlocked as described by applicant, and 0% to personnel actions. Following is Dr. Allen's causation analysis:

It is reasonable, probable, and based on substantial evidence, if Ms. Tedla's description of problems finding unlocked doors in the building where she works as a Night Custodian is actual and true, and if her employers have been unable to solve this issue as she described for the assessment, and lacking concurrent personal stressors to explain her emotional changes, and absent preexisting traumatic events or problems for which she required psychiatric treatment, and all facts of the case, the work stress, CT 12/27/2024, met the 51% threshold for causation of psychiatric injury.

A Rolda analysis is as follows. She denied receiving disciplinary measures against her, no performance plans, no negative performance evaluations or counselings. 0% causation of psychiatric injury was due to personnel events. She denied prior anxiety disorders or concurrent personal stressors. 100% causation of her Undifferentiated Anxiety Disorder was a result of the work stress, CT 12/27/2024.

(*Id.*, p. 13.)

In her next report, Dr. Allen reviewed email messages from applicant's employer and Kaiser records of March 14, 2025 confirming applicant's complaint of stress due to unlocked doors at work. (Defendant's Exhibit D, Report of PQME Dr. Allen dated August 1, 2025, p. 2.) The email messages, however, included complaints that applicant had not emptied the trash and cleaned the bathrooms, responded in a hostile manner to criticism, confronted accusing teachers against the instructions of her supervisor, failed to lock doors behind her, left before the end of her shift, refused to do tasks assigned to her, and accused staff members of going through her personal belongings. (*Id.*, pp. 2-3.) Dr. Allen stated that "[r]eview of the deposition testimony would raise serious concerns about Ms. Tedla's credibility in reporting work events," but this comment is puzzling as Dr. Allen's report does not indicate that she reviewed any deposition testimony. (*Id.* at p. 3, para. 5.) Ostensibly based on the employer's email messages, the PQME indicated that there were "no facts to support [applicant's] contentions of harassment by her supervisor or others at her job site," but there is no discussion of whether applicant actually experienced fear due to unlocked doors, which was previously indicated by Dr. Allen to be the sole cause of applicant's Unspecified Anxiety Disorder. (*Id.* at p. 4, para. 1.) Dr. Allen did not assign any percentage of causation to personnel actions in her supplemental report, nor to any other cause, concluding only that "[t]here is insubstantial evidence to support that work stress, CT 12/27/2024, met the 51% threshold for causation of psychiatric injury." (*Id.*)

In her next report, dated October 31, 2025, Dr. Allen deferred an analysis of causation of injury to parts of the body other than the psyche, stating: “Causation and impairment for injuries to teeth, head, and circulatory system should be evaluated by another specialist. Apart from psychiatric aspects of a head injury, I am not qualified to make the necessary medical legal determinations for these body parts.” (Defendant’s Exhibit B, Report of PQME Dr. Allen dated October 31, 2025, p. 2.)

In her last report, Dr. Allen responded as follows to an interrogatory from defense counsel regarding whether there is any medical, factual, or other evidence that applicant sustained injury to her teeth, head, and circulatory system: “In the psychiatric QME of June 12th, 2025, she reported headaches for the past six months with some associated tooth pain. She denied a history of a head injury or concussion. There was no association by her report or from the medical records that this recent problem was related to the industrial injury.” (Defendant’s Exhibit A, Report of PQME Dr. Allen dated December 4, 2025, p. 2.)

On December 21, 2025, applicant dismissed her attorney of record. She filed a declaration of readiness to proceed, after which she set and tried her case without the assistance of an attorney.

At trial, the parties submitted the issue of whether applicant sustained a cumulative injury to her psyche and in the form of headaches and a sleep disorder arising out of and in the course of employment prior to December 27, 2024. (Minutes of Hearing and Summary of Evidence dated April 13, 2026, page 2, lines 9-25.) The evidentiary record at trial included testimony from both applicant and employer witnesses, as well as a day program certificate of achievement (Applicant’s Exhibit 1), the medical reports of PQME Dr. Allen (Defendant’s Exhibits A through D), and 23 email messages (Defendant’s Exhibits E through Z and AA). (*Id.* at pp. 2-3.)

At trial, applicant testified that she was injured at work on a cumulative basis over approximately three years. Her hours were 2:30 p.m. to 11:00 p.m. She was made aware that a door that was her responsibility to lock was left open on one occasion. She spoke to the head custodian and let him know that the door had been opened. She felt that the door being opened created an unsafe situation, so she contacted her union. (*Id.*, p. 4, lines 8-16.)

She asked to review camera footage which would have indicated who had unlocked the door, and they stonewalled. She was told not to worry about it. She contacted Eric and was told to continue working. She contacted Santa Rosa Police Department. She contacted her union and spoke to Alex and Rafael. She was responsible for a door near the library. She was asked not to

contact law enforcement. She was told not to worry. However, she felt that the issue was not settled. She contacted Valerie, who worked in administration, as well as Isaac. She knew there were homeless people in the area of Santa Rosa High School, and this concerned her. (*Id.* at p. 4, lines 18-33.)

On September 2024, the door was unlocked and some of her personal items were removed. She contacted Alex to report it. She spoke to Mr. Escobar and requested to see the camera footage. She complained to Abraham who took over as head custodian, and she was told that he did not have access to the camera. (*Id.* at p. 4, lines 32-39.)

Her son and her husband encouraged her to quit her job. She felt a lot of stress. When the door was unlocked, she did not feel safe. Her son and husband would come occasionally to escort her home. She was encouraged to document instances of the unlocked door. She was told that she had to contact human resources in order to review the camera footage. (*Id.* at p. 4, line 41 through p. 5, line 2.)

She attempted to apply for an earlier shift but didn't realize that the interviews had been scheduled until the day the interviews took place. Her belief was that seven people were interviewed, and they did not see an application from the applicant. (*Id.* at p. 45 lines 4-8.) She complained that certain meetings for the maintenance workers were conducted in Spanish and not in English. (*Id.* at p. 5, lines 10-11.)

Upon cross-examination, applicant admitted that she had some issues with her job performance after Abraham took over. She received an e-mail on October 12, 2021, indicating that she had not cleaned the mirrors or sinks in the bathroom, also, that the door to the Ag building was left unlocked all weekend. She did not believe that was the case as she always checked the doors before she left, and she always cleaned the mirrors and sinks. (*Id.* at p. 5, lines 15-21.)

On January 13, 2022, she received an e-mail indicating that the windows in Room 60 had been left open. She was not sure about that, although she testified that she always checked. She also indicated that she had difficulty inputting her code in order to set the alarms. Apparently, sometimes that did not work. (*Id.* at p. 5, lines 23-28.)

On February 3, 2022, she received an e-mail indicating that she had forgotten to lock the door to the welding shop. She testified she believed that was incorrect. The welding shop door required a special key. (*Id.* at p. 5, lines 30-33.)

On November 29, 2022, she was informed by e-mail that the north gym door had been left open. She believed that she did not leave it open. (*Id.* at p. 5, lines 35-37.)

On September 19, 2023, she received an e-mail indicating that she had failed to restock toilet paper and failed to empty trash cans. She believes that her employer was trying to create evidence that she was not completing her job duties and that at no time did she ever leave a door or window unlocked. She checked every night. (*Id.* at p. 5, lines 39-44.)

She reviewed videotape with her union representative and Mr. Escobar of doors that had been left open. After reviewing the videotape evidence, including days prior and subsequent to the date of the alleged incident, she did not see any third party on camera. She maintains that the video surveillance was altered. There was no evidence of anybody following behind her and opening doors. However, she believed that that was because the videotape had been modified. She believes her union representative was named Joseph. (*Id.* at p. 5, line 46 through p. 6, line 10.)

She had a second job doing in-home support, working four hours per day in the morning, for 20 years. She agreed that she had been offered a job at Montgomery High School, which started in the morning and ended in the afternoon. This conflicted with her second job. She is no longer working doing home support. She stopped working at both jobs at the same time. She did not take the job at Montgomery High School. (*Id.* at p. 6, lines 12-20.)

Amanuel Moges, a custodian currently working in Healdsburg, also testified. He testified that in 2023, applicant was getting very stressed, not sleeping and having a hard time overall. The witness encouraged applicant to close all of the doors late at night and to make sure everything was locked before she left. He believed that Rafael, the maintenance supervisor, had an issue with people of different races, including people of African descent. He believes that's why meetings were conducted in Spanish and not in English. He also recognized that there were homeless people in the area and that having doors unlocked was frightening, especially for the applicant as a woman. He expressed his lay, non-medical opinion that applicant's mind and psyche had been injured, causing permanent disability. (*Id.* at p. 7, lines 1-25.)

Next, Alejandro Escobar testified. He was the assistant maintenance manager. He supervised applicant from June 2019 to September 1, 2023. He has since been promoted and is now the supervisor of applicant's current direct supervisor. (*Id.* at p. 7, lines 27-35.) After he was promoted, Abraham Rodriguez became applicant's direct supervisor. (*Id.* at p. 8, lines 44-45.)

Mr. Escobar denied having any prejudice against any race, including Eritreans. He agreed

that he had conducted meetings in Spanish but made sure that they were conducted in both Spanish and English, and never just in Spanish. He supervises and supervised individuals who were monolingual in Spanish as well as monolingual in English. (*Id.* at p. 7, lines 37-44.)

He believed applicant's job performance was great, with the exception of occasionally leaving doors and windows unlocked, as well as occasionally forgetting to restock bathrooms. Her job included locking up at night. She was obligated to check all of the doors and windows at the end of her shift. He noted that doors were not always secured. (*Id.* at p. 67 line 46 through p. 8, line 6.)

He was one of the first to arrive at work, usually getting there at 6:00 a.m. On more than one occasion, he noted that the building was unlocked. When he discussed this with applicant, she never took responsibility and always denied that she had left the doors and/or windows unlocked. (*Id.* at p. 8, lines 4-12.) Part of applicant's responsibility was to also set alarms, and she had some trouble setting the alarms. He was informed by applicant that her pass code for the alarms was not working. However, it appears to have been working at all relevant times. (*Id.* at p. 8, lines 14-17.)

He recalled that applicant denied the allegation in a September 25, 2022 e-mail message that the welding shop had been left unlocked. She also denied the accusation that a gym door had been left open on November 22, 2022. He received complaints from teachers that certain bathroom supplies had not been restocked. He was told by teachers that applicant had confronted the teachers and asked them not to send e-mails regarding any of her shortcomings. Applicant denied this allegation. She claimed that somebody else was unlocking the doors, although that person would have had to have had a key, and keys were not common. (*Id.* at p. 8, lines 19-32.)

He reviewed the security footage with applicant and her union representative, including, at applicant's request, days that were prior to or after the incidents complained of. No other person was observed unlocking any door. He testified that the film that was viewed was not manipulated and confirmed that a union representative was present at the viewing. The union representative indicated no objections to the films. (*Id.* at p. 8, lines 34-42.)

On March 21, 2024, a meeting was held concerning blood stains in the bathroom in the health office. Applicant agreed to take action on that issue. (*Id.* at p. 8, line 47 through p. 9, line 2.) But sometimes Applicant would walk out of custodian meetings. It seemed that she had disengaged herself from her obligations. She was obligated to stay for the entire meeting and failed to do so on multiple occasions. (*Id.* at p. 9, lines 4-7.)

With respect to the “daytime position,” human resources indicated to him that applicant had not completed her application. Applicant then showed the witness a “proof of service” indicating that applicant’s application for the day shift had not been completed and so was not accepted as a completed application. Applicant also moved into evidence a Day Program Certificate of Achievement dated October 3, 2003, which was admitted into evidence as Applicant's Exhibit Number 1. (*Id.* at p. 9, lines 9-20.)

On May 19, 2026, the WCJ issued an order rescinding (vacating) submission and notice of intent to admit additional exhibits that applicant had filed following trial. There does not appear to be any order thereafter to admit the additional exhibits or to once again submit issues for decision.

On June 9, 2026, the WCJ issued an F&O finding that (1) applicant was employed for a cumulative period ending December 27, 2024, as a custodian, Occupational Group Number 340, by defendant; (2) at the time of injury, the employer was permissibly self-insured; and (3) applicant failed to establish that she sustained a psychiatric injury caused primarily by stress at work. The WCJ ordered that applicant take nothing as a result of her alleged injuries. (F&O, at p. 1.)

The Opinion on Decision in support of the F&O summarizes the basis for the decision as follows:

Without belaboring the point, the court finds the testimony of the applicant to be less than convincing. The court finds the reporting by Dr. Allen to be convincing and parallels the court’s reasoning very closely. Following defendant’s provision of much of the same information provided to the court, Dr. Allen wrote the following:

The emails began with a description of a problem with Ms. Tedla and her reaction to a directive and a criticism about her job performance. There were complaints from teachers that she had not emptied the trash, and this resulted in a problem with ants. When given a directive pertaining to the complaint, she had commented "this is bullshit" and then insisted on confronting the teacher when her supervisor instructed her otherwise.

An email from Rafael Sanabria said that Ms. Tedla often blamed others for not locking up the door at the end of her shift, which was her responsibility. Her claims had prompted review of surveillance footage from management, but there was no video evidence of her contentions that other employees were unlocking the doors behind her.

Another email warned her of a disciplinary action if she did not comply with attendance at custodial meetings. There was documentation of a meeting in September 2020 indicating that

she was leaving early, up to one hour before the end of our shift. An email from her supervisor Mr. Rodriguez in June 2024, indicated that she was refusing to do any of her tasks assigned for her summer schedule.

There were complaints from staff members in March 2024 that Ms. Tedla had not been cleaning the bathrooms or emptying trash in some of her assigned areas. She had written emails to her supervisor accusing him of harassment. However, she gave no reasonable examples. Instead, the supervisor complained about her being loud and aggressive. Around the same time, she had left doors unlocked again after her shift. In an email from October 2024, she was described as making staff uncomfortable with her accusations that people were going through her personal belongings at work. There was no video surveillance that supported her contentions.

Review of the deposition testimony would raise serious concerns about Ms. Tedla's credibility in reporting work events. The emails from her supervisor were rational, and the complaints about her job performance appeared justified. Her emails to the supervisor give no reasonable explanations for her behavior or her allegations of harassment by the supervisor. Instead, it is clear that Ms. Tedla has had job performance problems for many years. This was not just the impression of her supervisor, but other staff, including teachers.

Based on review of this additional information, there is insubstantial evidence to support Ms. Tedla's description of problems causing psychiatric injury. Multiple individuals at her employment, including her supervisor, gave descriptions of problems pertaining to her job performance and inappropriate behavior in response to criticism and direction. Their descriptions are consistent with one another. There were no facts to support her contentions of harassment by her supervisor or others at her job site. There is insubstantial evidence to support that work stress, CT 12/27/2024, met the 51% threshold for causation of psychiatric injury.

Defense Exhibit D, 8/1/2025 report of QME Dr. Allen at pg. 2 – 3

The court notes several aspects of applicant's testimony that were of particular concern. First, and most concerning, was that, although convinced that someone was following behind her and unlocking doors she had previously locked, having reviewed the surveillance video, no evidence of this was evident. This video was viewed by the applicant in the presence of a union representative and management. Applicant contends that the video had been altered, however, the court finds this to be completely implausible. No one altered the video, and

no one was unlocking the doors. Applicant simply failed to do so. Applicant then spent several years obfuscating rather than accepting responsibility.

In addition, applicant admitted that although part of her responsibility was to set an alarm, she admitted that she had difficulty inputting her code, presumably resulting in the alarm not getting set. This is an obvious failure to meet the demands of the job. It is unclear what, if anything, applicant did to correct this.

Finally, as a means of explaining why certain meeting would only be conducted in Spanish, she suggested that the supervisor running the meetings, Alejandro Escobar, was racist. This accusation is not supported by any other evidence, and having heard testimony from Mr. Escobar, the court found nothing whatsoever that would suggest any prejudice against the applicant or anyone else. The court feels that the applicant's accusation is consistent with her propensity to blame others for her own shortcomings.

In short, all of the alleged stressors affecting the applicant and causing her stress were related to mistakes or oversights by the applicant herself and not by her employer. The cause of applicant's stress was never her employer. The stress, such as it was, was due to the applicant's refusal to take responsibility for her own actions and take appropriate action to address the issues that arose. The court finds that the applicant failed to establish that actual events of employment were responsible for her symptoms. (Cf. *Verga v. WCAB 73 CCC 63* (3rd App Dist. Ct. App. 2008).

(Opinion on Decision, June 9, 2026, pp. 2-4.)

The proof of service of the F&O and Opinion on Decision is unsigned but indicates that these two documents were served by "GNUNALLY" on June 9, 2026. The Official Address Record is listed on the proof of service, but only two of the names are highlighted: Abramson Labor Group, applicant's former counsel, which is identified as a lien claimant, and Mullen & Filippi, a law firm representing defendant. Applicant's name is not highlighted.

On August 3, 2026, applicant filed a verified Petition for Reconsideration that alleges, inter alia, that she never received the WCJ's order in the mail, and that she had to go to the WCAB office to get a copy of the F&O. (Petition dated August 3, 2026, page 1.)

The WCJ's Report does not address the allegation of the Petition that applicant never received the F&O. It does characterize the Petition as untimely, offering only the following explanation: "Applicant in pro per. The Petition was not filed timely. The decision issued June 9, 2026. The Petition for Reconsideration wasn't filed until August 4, 2026, 56 days later." (Report, at p. 1, para. 5.) The proof of service of the Report, like the proof of service of the F&O and Opinion on Decision, lists the names of parties on the official address record with only the names

of defense counsel and lien claimant Abramson Labor Group highlighted in bold.

I

Petitions for reconsideration filed on or after July 14, 2026 are subject to Labor Code section 5909,² which states that:

- (a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.
- (b)
 - (1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.
 - (2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on August 17, 2026, and 60 days from the date of transmission is October 16, 2026. This decision is issued by or on October 16, 2026, so that we have timely acted on the Petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report shall be notice of transmission.

Here, according to the proof of service for the Report, the Report was served on August 17, 2026, and the case was transmitted to the Appeals Board on August 17, 2026. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. However,

² Further unlabeled statutory references are to the Labor Code.

the proof of service appears to indicate that only counsel of record for defendants and a lien claimant (former counsel for applicant) were served, and applicant herself was not served. Thus, we conclude that not all parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided only defense counsel and a lien claimant with actual notice as to the commencement of the 60-day period on August 17, 2026, and appears to have failed to provide such notice to applicant.

II

Section 10628 of the WCAB Court Rules describes the requirements for service by the Workers' Compensation Appeals Board:

- (a) The Workers' Compensation Appeals Board shall serve the injured employee or any dependent(s) of a deceased employee, whether or not the employee or dependent is represented, and all parties of record with any final order, decision or award issued by it on a disputed issue after submission. The Workers' Compensation Appeals Board shall not designate a party, or their attorney or agent of record, to serve any final order, decision or award relating to a submitted issue.
- (b) If the Workers' Compensation Appeals Board effects personal service of a document at a hearing or at a walk-through proceeding, the proof of personal service shall be made by endorsement on the document, setting forth legibly the name(s) of the person(s) served, the date of service and the fact of personal service. The endorsement shall bear the legibly printed name and signature of the person making the service.
- (c) If the Workers' Compensation Appeals Board serves a document by mail, the proof of mail service shall be made by endorsement on the document, setting forth the fact of mail service on the persons or entities listed on the official address record as required by rules 10400 and 10401 and shall state the date of mail service.
- (d) If the Workers' Compensation Appeals Board electronically serves a document, the proof of electronic service shall be made by endorsement on the document, setting forth the fact of electronic service on the persons or entities listed on the official address record as required by rules 10400 and 10401 and the date of electronic service.
- (e) Where a district office of the Workers' Compensation Appeals Board maintains mailboxes for outgoing documents and allows consenting parties, lien claimants and attorneys to obtain their documents from their mailboxes, documents so obtained shall be deemed to have been served on the party, lien claimant or attorney by mail on the date of service specified on the document.

(Cal. Code Regs., tit.8, § 10628.)

The June 9, 2026 F&O is clearly a final decision on a disputed issue after submission, because it orders that applicant take nothing on her cumulative injury claim. The WCAB was

therefore required to serve the F&O on applicant, whether or not she was represented, and on all other parties of record. As acknowledged in the WCJ's Report, applicant in this case was not represented, and based on the fact that her name and address are not highlighted in bold, it appears that she was not served with the F&O, either by mail or electronic service.

Where an order can be shown to have been defectively served, the time limit begins to run as of the date of receipt of the order. (*Hartford Accident & Indemnity Co. v. Workers' Comp. Appeals Bd. (Phillips)* (1978) 86 Cal.App.3d 1, 3 [43 Cal.Comp.Cases 1193].) "A failure to serve documents in a WCAB proceeding in the manner required by statute or the board's regulations is not a 'mere irregularity' but rather an omission of substance which denies a fundamental right." (*Phillips, supra*, at p. 3, citing *Lyydikainen v. Industrial Acc. Com.* (1939) 36 Cal.App.2d 298, 303-305 [4 Cal.Comp.Cases 264].)

Because there is no proof that applicant ever received the order, it follows that her Petition cannot be considered untimely, and the WCJ should not have characterized it as such in his Report. If the WCJ had any reason to believe that applicant was in fact served with the Petition, then he should have explained this in his Report. Further, if a hearing were necessary to determine a newly arisen factual dispute over whether or when applicant was served with the decision, then the WCJ could and would have exercised his power under section 10961 of the WCAB Court Rules to conduct further hearing on that factual issue. (See Cal. Code regs., tit. 8, § 10961(b).) Because the proof of service indicates that applicant was not served, and because the WCJ did not address applicant's contention regarding the lack of actual service of the decision in his Report or through further proceedings, we see no reason to question that contention and will accordingly regard the Petition as timely.

III

As we noted in *Pasquotto v. Hayward Lumber* (2006) 71 Cal.Comp.Cases 223 (Appeals Board en banc), a petition for reconsideration gives the Appeals Board authority to make new and different findings on any issues submitted for decision at trial, and not just on those issues that are specifically discussed in the petition:

The Labor Code provides that "all judicial powers" and original jurisdiction in workers' compensation matters are vested with the Appeals Board itself. (Lab. Code, §§ 111(a), 5300, 5301.) The WCJs conduct trials and make initial determinations pursuant to a delegation by the Appeals Board. (Lab. Code, §§ 5309, 5310; Cal. Code Regs., tit. 8, § 10348.) A decision of a WCJ only becomes the

decision of the Appeals Board if reconsideration is not granted. (Lab. Code, § 5900 et seq.; Cal. Code Regs., tit. 8, § 10348.)

Moreover, section 5906 provides that "[u]pon the filing of a petition for reconsideration . . . the appeals board may, with or without further proceedings and with or without notice affirm, rescind, alter, or amend the order, decision, or award made and filed by the appeals board or the workers' compensation judge . . ." (Lab. Code, § 5906.) Similarly, section 5908 provides that "[a]fter . . . a consideration of all the facts the appeals board may affirm, rescind, alter, or amend the original order, decision, or award." (Lab. Code, § 5908.)

Based on these statutes, it is settled law that a grant of reconsideration has the effect of causing "the whole subject matter [to be] reopened for further consideration and determination" (*Great Western Power Co. v. Industrial Acc. Com. (Savercool)* (1923) 191 Cal. 724, 729 [218 P. 1009] [10 I.A.C. 322]) and of "[throwing] the entire record open for review." (*State Comp. Ins. Fund v. Industrial Acc. Com. (George)* (1954) 125 Cal.App.2d 201, 203 [270 P.2d 55] [19 Cal.Comp.Cases 98].) Thus, once reconsideration has been granted, the Appeals Board has the full power to make new and different findings on issues presented for determination at the trial level, even with respect to issues not raised in the petition for reconsideration before it. (*Ibid.*; e.g., also, *Tate v. Industrial Acc. Com.* (1953) 120 Cal.App.2d 657, 663 [261 P.2d 759] [18 Cal.Comp.Cases 246]; *Pacific Employers Ins. Co. v. Industrial Acc. Com. (Sowell)* (1943) 58 Cal.App.2d 262, 266–267 [136 P.2d 633] [8 Cal.Comp.Cases 79].)

(*Pasquotto, supra*, 71 Cal.Comp.Cases at 229, fn. 7.)

Accordingly, even if the allegations were not well articulated, because applicant's Petition for Reconsideration was timely filed, we have jurisdiction to consider the record on the submitted issue of whether applicant has sustained a compensable injury that is not barred by the requirements of section 3208.3 and to render our own decision.

IV

Section 3208.3 requires as a condition of compensation that an injured worker prove by a preponderance of the evidence that actual events of employment predominantly caused the psychological injury. (Lab. Code, § 3208.3(b)(1).) This requires the WCJ to determine whether actual events of employment occurred, and it requires a psychologist or psychiatrist to determine whether actual events of employment were a predominant cause of an injury to the psyche. (*Rolda v. Pitney Bowes, Inc.* (2001) 66 Cal.Comp.Cases 241, 245 (Appeals Board en banc).)

The phrase "predominant as to all causes" means that "the work-related cause has greater than a 50 percent share of the entire set of causal factors." (*Dep't of Corr. v. Workers' Comp. Appeals Bd. (Garcia)* (1999) 76 Cal.App.4th 810, 816 [64 Cal.Comp.Cases 1356].) In order to

apply this standard, the evaluating physician must take a history of all events alleged to have contributed to the psychiatric injury, then render an opinion as to causation in terms of first whether the employment events were a predominant, or greater than fifty percent, cause of the injury. (*Rolda, supra*, 66 Cal.Comp.Cases at p. 245.)

Section 3208.3 also provides a defense barring compensation for a psychiatric injury if the injury was substantially caused by a lawful, nondiscriminatory, good faith personnel action. (Lab. Code, § 3208.3(h).) The statute expressly assigns the burden of proof on this issue to a defendant who raises the defense.

In order to determine whether the good faith personnel action defense bars compensation, the WCJ must determine whether any “personnel action” occurred, and if so, whether it was lawful, nondiscriminatory, and in good faith. The defense also requires a psychologist or psychiatrist to determine whether such personnel action was a “substantial cause” of an injury to the psyche, which is defined by section 3208.3 as “at least 35 to 40 percent of the causation from all sources combined.” (Lab. Code, § 3208.3(b)(3); *Rolda, supra*, 66 Cal.Comp.Cases at p. 246.)

As we noted in our en banc decision in *Rolda, supra*, and also in significant panel decisions³ *Larch v. Contra Costa County* (1998) 63 Cal.Comp.Cases 831, 833–839 and *Stockman v. State of California Department of Corrections* (1998) 63 Cal.Comp.Cases 1042, 1044–1047, not every action by a supervisor constitutes a “personnel action” for purposes of section 3208.3, and the WCJ must analyze this issue by applying the appropriate legal guidelines. (*Rolda, supra*, 66 Cal.Comp.Cases at p. 246.) The *Rolda* decision points out that in *County of Butte v. Workers' Comp. Appeals Bd. (Purcell)* (2000) 65 Cal.Comp.Cases 1054 (writ denied), memos which criticized the applicant’s job performance, but did not contain disciplinary actions, threats or warnings of disciplinary actions, did not constitute personnel actions.

Furthermore, the WCJ must analyze whether personnel actions were in good faith. We provided examples of this in *Rolda, supra*. One case, *Contel of California v. Workers' Comp. Appeals Bd. (Holly)* (1998) 63 Cal.Comp.Cases 847 (writ denied), held that discipline in a manner contrary to the employer's policy manual was not a good faith personnel action. Another case, *County of Kern v. Workers' Comp. Appeals Bd. (Johnson)* (1998) 63 Cal.Comp.Cases 1068 (writ

³ A “significant panel decision” is a decision of the Appeals Board that has been designated by all members of the Appeals Board as of significant interest and importance to the workers' compensation community. Although not binding precedent, significant panel decisions are intended to augment the body of binding appellate and en banc decisions by providing further guidance to the workers' compensation community. (Cal. Code Regs., tit. 8, § 10305(u).)

denied), held that supervision by harassment, ridicule, and generally unprofessional conduct was not a good faith personnel action.

Moreover, all decisions by a WCJ must be supported by substantial evidence. (*Lamb v. Workmen's Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Bracken v. Workers' Comp. Appeals Bd.* (1989) 214 Cal.App.3d 246 [54 Cal.Comp.Cases 349].) Substantial evidence has been described as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion and must be more than a mere scintilla. (*Braewood Convalescent Hosp. v. Workers' Comp. Appeals Bd. (Bolton)* (1983) 34 Cal.3d 159 [48 Cal.Comp.Cases 566].) To constitute substantial evidence "...a medical opinion must be framed in terms of reasonable medical probability, it must not be speculative, it must be based on pertinent facts and on an adequate examination and history, and it must set forth reasoning in support of its conclusions." (*Escobedo v. Marshalls* (2005) 70 Cal.Comp.Cases 604, 621 (Appeals Board en banc).) "Medical reports and opinions are not substantial evidence if they are known to be erroneous, or if they are based on facts no longer germane, on inadequate medical histories and examinations, or on incorrect legal theories. Medical opinion also fails to support the Board's findings if it is based on surmise, speculation, conjecture or guess." (*Hegglin v. Workmen's Comp. Appeals Bd.* (1971) 4 Cal.3d 162, 169 [36 Cal.Comp.Cases 93, 97].)

It is well established that there must be some solid basis in a medical report for the doctor's ultimate opinion. The Appeals Board may not blindly accept a medical opinion which lacks a solid underlying basis and must carefully judge its weight and credibility. (*National Convenience Stores v. Workers' Comp. Appeals Bd. (Kesser)* (1981) 121 Cal.App.3d 420, 426 [46 Cal.Comp.Cases 783].) In other words, the Appeals Board must look to the underlying facts of a medical opinion to determine whether or not that opinion constitutes substantial evidence, and accordingly, the expert's opinion is no better than the facts on which it is based. (*Turner v. Workers' Comp. Appeals Bd.* (1974) 42 Cal.App.3d 1036, 1044 [39 Cal.Comp.Cases 780].) These requirements apply to all medical evidence, including a physician's analysis of the good faith personnel action defense under section 3208.3 and *Rolda, supra*.

In this case, Dr. Allen diagnosed an Unspecified Anxiety Disorder, with no personality disorder diagnosis, and attributed 100% of causation of this psychiatric injury to work stress if doors were in fact unlocked as described by applicant, and 0% to personnel actions. In her causation analysis, she indicated that if Ms. Tedla's description of problems finding unlocked

doors in the building where she works as a night custodian is actual and true, and if her employers have been unable to solve this issue as she described for the assessment, and lacking concurrent personal stressors to explain her emotional changes, and absent preexisting traumatic events or problems for which she required psychiatric treatment, and all facts of the case, the work stress, CT 12/27/2024, met the 51% threshold for causation of psychiatric injury.

Dr. Allen also provided a *Rolda* analysis, based on applicant's initial report that there were no disciplinary measures against her, no performance plans, no negative performance evaluations or counseling: zero percent causation of psychiatric injury due to personnel events, and 100 percent causation due to the work stress of working in an unsecure environment through December 27, 2024. Dr. Allen then reviewed email messages from applicant's employer and Kaiser records of March 14, 2025, confirming applicant's complaint of stress due to unlocked doors at work. The email messages apparently caused Dr. Allen to reconsider applicant's credibility, although she erroneously attributed this change in opinion to "deposition testimony" that she did not review. Dr. Allen indicates that there was no harassment by applicant's employers, which would logically eliminate harassment as an actual event of employment.

Unlocked doors, on the other hand, were clearly an actual event of employment, as both applicant and the employer indicated that doors were unlocked at applicant's workplace. The only apparent difference between the parties' respective positions on this issue was that applicant claimed that someone else was unlocking the doors, and defendant claimed that applicant herself had forgotten to lock them. Dr. Allen and the WCJ should be reminded that workers' compensation is a "no fault" system, so it is immaterial whether the conditions causing applicant's anxiety were her fault or the employer's fault. The only relevant consideration is whether those conditions actually existed, regardless of whose fault they may have been, and whether along with any other actual conditions of employment they constituted a predominant cause of applicant's injury to the psyche. In order to make this determination, Dr. Allen must first identify all causes of injury. The WCJ may then in turn determine whether each cause identified by Dr. Allen was an actual event of employment.

Dr. Allen provides no discussion of whether applicant actually experienced fear due to unlocked doors, which she had previously identified as the sole cause of applicant's Unspecified Anxiety Disorder. Dr. Allen did not assign any percentage of causation to the email messages that ostensibly caused her to abandon her previous causation opinion in a supplemental report, nor did

she assign new causation percentages to any other cause as required by *Rolda*. Dr. Allen concluded only that there was “insubstantial evidence” to support her previous finding that actual events of applicant’s employment met the 51% threshold for causation of psychiatric injury under section 3208.3, without any attempt to attribute the disorder to one or more causes as required. The PQME cannot logically determine that industrial causes of injury are 50 percent or less as to all causes without first accounting for all causes of injury within a reasonable degree of medical probability.

Dr. Allen’s modified opinions are incomplete and therefore fail to constitute substantial medical evidence. The PQME replaced what was a complete assessment of causation (100 percent to reported fear for safety at work due to unlocked doors) with an incomplete causation opinion that failed to identify and assign percentages of causation to any other causes of applicant’s Unspecified Anxiety Disorder. Further, Dr. Allen also replaced what was a complete *Rolda* analysis (zero percent to personnel actions) with a change of opinion after reviewing emails that criticized applicant’s job performance, calling into question whether or not applicant may have been subject to any good faith, nondiscriminatory personnel actions.

Where the medical record requires further development either after trial or submission of the case for decision, the preferred procedure is first to seek supplemental opinions from the physicians who have already reported in the case. (*McDuffie v. Los Angeles County Metropolitan Transit Authority* (2002) 7 Cal.Comp.Cases 138.) Dr. Allen should provide not just a general disavowal of applicant’s credibility, but a causation analysis that identifies each cause and its approximate percentage of contribution to causation of injury. Each cause and approximate percentage must be supported by a cogent explanation. If Dr. Allen assigns any percentage of causation of injury to applicant’s reaction to email messages received from her employer, or to any other adverse action of the employer, the WCJ may then consider whether the events to which Dr. Allen has attributed causation of injury constitute actual events of employment, as well as whether they constitute good faith, nondiscriminatory “personnel actions” under section 3208.3(h). If the WCJ finds that the employer’s email messages or other actions did constitute good faith, nondiscriminatory personnel actions, then compensability of the injury may be barred if Dr. Allen explains how and why those things constituted a “substantial” cause of injury, defined by section 3208.3(b)(3) as “at least 35 to 40 percent of the causation from all sources combined.” (Lab. Code, § 3208.3(b)(3).) The F&O, Opinion, and Report also all fail to address Dr. Allen’s clear deferral of body parts other than the psyche to other specialists. We therefore conclude that

at present, both Dr. Allen's supplemental reports and the WCJ's decision are missing essential components.

Accordingly, we will treat applicant's Petition as timely, rescind the F&O, and return this matter to the WCJ for further proceedings consistent with this decision. When the WCJ issues a new decision, any aggrieved person may timely seek reconsideration.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **GRANTED**.

IT IS FURTHER ORDERED as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Order issued by the WCJ on June 9, 2026 is **RESCINDED** and that the matter is **RETURNED** to the trial level for further proceedings consistent with this decision.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSEPH V. CAPURRO, COMMISSIONER

I CONCUR,

/s/ LISA A. SUSSMAN, DEPUTY COMMISSIONER

KATHERINE A. ZALEWSKI, CHAIR
PARTICIPATING NOT SIGNING



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 16, 2026

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**ETHIOPIA TEDLA
ABRAMSON LABOR GROUP
MULLEN & FILIPPI, LLP**

CWF/cs

I certify that I affixed the official seal of
the Workers' Compensation Appeals
Board to this original decision on this date.
CS